

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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LAURA ELLEN HAMILTON,

Plaintiff,

1:22-cv-1046 (BKS/DJS)

v.

SCHENECTADY POLICE DEPARTMENT,

Defendant.

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**Appearances:**

*Plaintiff pro se*  
Laura Ellen Hamilton  
Albany, NY 12216

**Hon. Brenda K. Sannes, Chief United States District Judge:**

**DECISION AND ORDER**

Plaintiff Laura Ellen Hamilton commenced this proceeding under 42 U.S.C. § 1983, and sought leave to proceed in forma pauperis (“IFP”). (Dkt. Nos. 1, 2). This matter was referred to United States Magistrate Judge Daniel J. Stewart who, on October 21, 2022, granted Plaintiff’s application to proceed IFP and recommended that Plaintiff’s complaint be dismissed with leave to amend. (Dkt. No. 5). Magistrate Judge Stewart determined that the complaint failed to provide a “short and plain statement of the claim showing that the pleader is entitled to relief,” as required by Fed. R. Civ. P. 8. (*Id.* at 3–4). Plaintiff was informed that she had fourteen days within which to file written objections to the report under 28 U.S.C. § 636(b)(1), and that the failure to object to the report within fourteen days would preclude appellate review. (*Id.* at 6). The Report-Recommendation was sent to Plaintiff’s last known address, but returned to the Court marked “Returned to Sender, Not Deliverable As Addressed.” (Dkt. No. 6). On October

25, 2022, Plaintiff made an in-person request to the Albany's Clerk's Office for a copy of the Report-Recommendation and was provided with a copy. Plaintiff filed a notice of change of address on November 7, 2022. (Dkt. No. 7). An Order extending plaintiff's time to respond to the Report-Recommendation an additional fourteen days, along with a copy of the Report-Recommendation, was then sent to Plaintiff's new address via regular mail on November 21, 2022. (Dkt. No. 8). In the Order, the Court advised Plaintiff if she failed to file objections to the Report-Recommendation, the Court would consider it "unopposed and review for clear error only." (*Id.* at 3). No objections to the Report-Recommendation have been filed.<sup>1</sup>

As no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee's note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Court adopts it in its entirety.

For these reasons, it is

**ORDERED** that the Report-Recommendation (Dkt. No. 5) is **ADOPTED** in its entirety; and it is further

**ORDERED** that that Plaintiff's complaint be **DISMISSED** with leave to amend; and it is further

**ORDERED** that any amended complaint must be filed **within thirty (30) days** of the date of this Order. Any amended complaint must be a complete pleading which will replace the current complaint in total; and it is further

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<sup>1</sup> In a letter dated November 17, 2022, Plaintiff wrote: "I haven't heard anything from the judge or the clerks or [the Clerk of the Court] yet. I've been having some thoughts. I don't know what your decisions [sic] gonna [sic] be on my case. I am a federal occupant. I would like my case handled federally. To the fullest. Get back to me." (Dkt. No. 9). Plaintiff does not address the Report-Recommendation in this letter.

**ORDERED** that if Plaintiffs file a timely amended complaint, it shall be referred to Magistrate Judge Stewart for review; and if Plaintiffs fail to file a timely amended complaint, the Clerk is directed to close this case; and it is further

**ORDERED** that the Clerk of the Court serve a copy of this Decision and Order on the Plaintiff via certified mail.

**IT IS SO ORDERED.**

Dated: December 12, 2022  
Syracuse, New York

  
Brenda K. Sannes  
Chief U.S. District Judge